

**Court of Appeals, State of Michigan**

**ORDER**

People of MI v Eric Charles Moten

Docket No. 283657

LC No. 06-412725 FC, 2006-412837 FC

Kurtis T. Wilder  
Presiding Judge

Brian K. Zahra

Kirsten Frank Kelly  
Judges

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The Court orders that the motion to file a supplemental brief is GRANTED and the supplemental brief filed with the motion is accepted.

In lieu of granting the delayed application for leave to appeal, pursuant to MCR 7.205(D)(2), the Court VACATES that portion of the sentence that ordered defendant to pay attorney fees, and REMANDS this case to the trial court. The trial court erred in ordering defendant to pay attorney fees without first assessing defendant's ability to pay. *People v Dunbar*, 264 Mich App 240, 252-256; 690 NW2d 476 (2004). On remand, the trial court shall address defendant's current and future financial circumstances and foreseeable ability to reimburse the county for attorney fees before determining whether defendant should pay those fees. At the trial court's discretion, the decision may be made based on the record without the need for a formal evidentiary hearing. *Id.*

We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 26 2008

Date

*Sandra Schultz Mengel*  
Chief Clerk